

**INFORMATION SHEET**  
**DETERMINATIONS OF NO JURISDICTION FOR ISOLATED, NON-NAVIGABLE, INTRA-STATE WATERS**  
**RESULTING FROM U.S. SUPREME COURT DECISION IN SOLID WASTE AGENCY OF NORTHERN COOK**  
**COUNTY V. U.S. ARMY CORPS OF ENGINEERS**

DISTRICT OFFICE:  
 FILE NUMBER:

OD-RK-KA  
200500086

REGULATORY PROJECT MANAGER:

Luke M. Cory

Date: Oct. 19, 2004

PROJECT REVIEW/DETERMINATION COMPLETED:

In the office    (Y/N)

Date:           

At the project site   Y  

Date: Oct. 18, 2004

PROJECT LOCATION INFORMATION:

State:

Kansas

County:

Marshall

Center coordinates of site by latitude & longitudinal coordinates:

39-48-36N 96-46-51W

Approximate size of site/property (including uplands & in acres):

40 acres

Name of waterway or watershed:

Trib. to Walnut Creek

SITE CONDITIONS:

Type of aquatic resource <sup>1</sup>	0-1 ac	1-3 ac	3-5 ac	5-10 ac	10-25 ac	25-50 ac	> 50 ac	Linear feet	Unknown
Lake									
River									
Stream									
Dry Wash									
Mudflat									
Sandflat									
Wetlands									
Slough									
Prairie pothole									
Wet meadow									
Playa lake									
Vernal pool									
Natural pond									
Other water (identify type)				X					
<u>Upland Drainage</u>									

<sup>1</sup>Check appropriate boxes that best describe type of isolated, non-navigable, intra-state water present and best estimate for size of non-jurisdictional aquatic resource area.

Migratory Bird Rule Factors <sup>1</sup> :	If Known		If Unknown Use Best Professional Judgment		
	Yes	No	Predicted to Occur	Not Expected to Occur	Not Able To Make Determination
Is or would be used as habitat for birds protected by Migratory Bird Treaties?					X
Is or would be used as habitat by other migratory birds that cross state lines?					X
Is or would be used as habitat for endangered species?				X	
Is used to irrigate crops sold in interstate commerce?				X	

<sup>1</sup>Check appropriate boxes that best describe potential for applicability of the Migratory Bird Rule to apply to onsite, non-jurisdictional, isolated, non-navigable, intra-state aquatic resource area.

TYPE OF DETERMINATION:

Preliminary    Or Approved   X  

ADDITIONAL INFORMATION SUPPORTING NJD (e.g., paragraph 1 – site conditions; paragraphs 2-3 – rationale used to determine NJD, including information reviewed to assess potential navigation or interstate commerce connections; and paragraph 4 – site information on waters of the U.S. occurring onsite): Site is shown as a blue line stream on the U.S.G.S. Quad. Map. An inspection upstream, where this drainage crosses a county road revealed a defined bed and bank downstream of the road, and farmed with no defined channel upstream from the road.

Throughout most of the reach downstream from the road, the channel would appear, then vanish with no evidence of any defined bed, bank, or OHWM. As this drainage entered into the floodplain of Walnut Creek, a very well defined bed and bank, with an OHWM was established. This portion of the drainage has a clear hydrologic connection to Walnut Creek and is a water of the U.S. Above this point, it is difficult to establish a clear hydrologic connection. The OHWM is broken by the absence of a bed and bank and there is no OHWM or wetlands present to create a hydrologic connection.